March 2005

Update: Adoption Proceedings Benchbook

CHAPTER 3

Identifying the Father

3.8   The Paternity Act

A. A Child "Begotten and Born to a Woman Who Was Not Married from the Conception to the Date of Birth of the Child"

Insert the following case summary on page 99 immediately before subsection (B):

♦   *Numerick v Krull*, ___ Mich App ___ (2005)

In *Numerick*, the Court held that the Paternity Act does not authorize a paternity action brought by a purported father, except with regard to a child born out of wedlock, even if the paternity action is filed when the mother is unmarried and before the child's birth. The defendant became pregnant with plaintiff's child at a time when she was not married. The plaintiff filed a paternity action. Prior to the birth of the child, the defendant married another man. The trial court dismissed the paternity action because the child was not born out of wedlock. The plaintiff appealed. The Court of Appeals upheld the trial court's dismissal and reiterated its holding in *Spielmaker v Lee*, 205 Mich App 51, 58 (1994): if a woman is "not married" for the entire gestational period, or from conception to the date of the child's birth, then the child is born out of wedlock. Since the defendant was married at the time of birth, the child was not born out of wedlock. Plaintiff's filing a paternity action before the child was born did not alter the fact that the child was not born out of wedlock; therefore, the plaintiff did not have standing.

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C. Who May Bring a Paternity Action

Insert the following case summary on page 105 after *Spielmaker v Lee*:

♦   *Numerick v Krull,* ___ **Mich App** ___ **(2005)***

A purported father does not have standing under the Paternity Act when the child is not born out of wedlock, even if the father files the action before the child's birth and while the mother is unmarried.